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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,150

10/07/2005

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EXAMINER

GOLDMAN, MICHAEL H

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

07/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,150	Applicant(s) OHNO ET AL.	
	Examiner MICHAEL H. GOLDMAN	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/7/2005, 4/1/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following, non-final, first action on the merits is in response to the initial filing on October 7, 2005. Claims 1-11 are pending and have been considered below.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. Claims 1, 8 and 11 are directed to a computer software program and software *modules*, recited as '*portion*' in claims 1, 8, and 11, see MPEP 2107.01, Inventions patentable. The Office considers a computer program to be non-statutory functional data per se when it is not explicitly recited as being on a computer readable medium. In order to overcome this rejection the Applicant may amend the claim as that it becomes a product claim directed to the computer readable medium, such as "A computer readable medium having a computer program stored thereon which when executed by a computer performs a series of steps, comprising:"

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3688

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Patel et al. (7,370,004).

Claims 1 and 8-11: Patel et al. discloses an information brokerage system comprising:

-a user information storage portion for storing provider area information and provision information for each information provider, the provider area information indicating an area designated by the information provider, and the provision information to be provided by the information provider, - a determining portion for determining whether or not an area indicated by the user area information, - an information transmission (delivery) portion for transmitting the provision information (see abstract, lines 1-20 whereby a management repository storing information concerning the user and further storing information concerning a plurality of information/products/services to offer the user and a personalization engine for making decisions (determining portion) as to which provision information to provide to a user, and whereby the information system is coupled to the communication channel (information transmission portion) and whereby the user having a communication device for communicating over the channel, examiner construes area information as inherently included in the user and provider profiles);

-a user registration portion for receiving an application from the user for information delivery so as to register the user as an information delivery destination user

(see column 7, lines 52-54 whereby the present invention provides a means to personalize an interaction via various communication channels between a customer (user) and a provider, examiner construes a means to personalize an interaction as including a user registration portion for receiving an application from the user for information delivery, also see column 8, lines 3-15); and

-a delivery status management portion for managing delivery status of information to the provider (see column 8, lines 21-31).

Claim 4: Patel et al. discloses the invention as in claim 1 above. Patel et al. further discloses the feature wherein the provision information storage portion stores category information in association with the provision information, the user information storage portion stores category information desired by the user, and the information transmission portion transmits the provision information if a category of contents of the provision information is included in a category of information desired by the user (see rejection under claim 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 2, 3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (7,370,004).

Claims 2 and 5: Patel et al. discloses the invention as in claim 1 above. However he fails to explicitly disclose the feature wherein the provision/segmented information storage store provider location information, the user information storage portion stores user location information and the information transmission portion transmits the provision information if a distance between a location of the information provider who provides the provision information to be transmitted and a location of the user who is a destination of the transmission is smaller than the distance designated by the user.

However, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include a distance of provider/provider information to user designated distance to initiate transmission of the provision information. One would have been motivated to do so in order to satisfy customer travel distance requirements so as to increase the transaction rate, i.e.

provide information about an information provider within a reasonable distance from the user.

Claim 3: Patel et al. discloses the invention as in claim 1 above. However he fails to explicitly disclose the feature comprising a movement information obtaining portion for obtaining movement information that indicates a speed and a direction of movement of the user to support the determining portion.

However, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include a speed and direction of movement of user portion to determine when to transmit provisioning information to a user. One would have been motivated to do so in order to select information providers that the user has not already passed, e.g. when driving on the Interstate.

Claims 6 and 7: Patel et al. discloses the invention as in claim 1 above. However he fails to explicitly disclose the feature wherein the provision information includes information for advising an application for receiving information delivery from the information provider and comprising a delivery status management portion for managing a delivery status of information that is delivered directly from the information provider to the user, and an accounting information generation portion for counting delivery statuses of the information at a predetermined timing so as to generate accounting information to the information provider.

However, Official Notice is taken that it is old and well known to keep customers informed on the delivery status of an order. For example, both FedEx and UPS delivery services have provided user with up-to-date information pertaining to the expected delivery date and time since they were first established. Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include the features of information for advising an application for receiving information delivery from the information provider and comprising a delivery status management portion for managing a delivery status of information that is delivered directly from the information provider to the user, and an accounting information generation portion for counting delivery statuses of the information at a predetermined timing so as to generate accounting information to the information provider. One would have been motivated to do so in order to allow the user to anticipate and prepare for the delivery of the information..

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith et al. (7,337,127) discloses a computer implemented method and system for targeted marketing.

Szabo (7,181,438) discloses an improved human user computer interface database access system wherein a user set of characteristics is employed.

Olivier (6,480,885) discloses dynamically matching users based on a threshold degree of matching of send and recipient predetermined criteria.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL H. GOLDMAN whose telephone number is (571)270-5101. The examiner can normally be reached on Monday thru Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mhg
July 8, 2008

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688

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